

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

CASEY CARSON,)
vs.)
Plaintiff,) CIVIL NO. 09-526-GPM
) CRIMINAL NO. 06-30135-GPM
UNITED STATES OF AMERICA,)
Defendant.)

MEMORANDUM AND ORDER

MURPHY, District Judge:

On January 21, 2010, this Court entered Final Judgment and dismissed Petitioner Casey Carson's motion to vacate, set aside, or correct sentence (Doc. 1). Petitioner filed a notice of appeal on March 2, 2010 (Doc. 4). Because Petitioner may not proceed on appeal without a certificate of appealability issued by either this Court or the Court of Appeals for the Seventh Circuit, the Court construes the notice of appeal as also requesting a certificate of appealability. *See* 28 U.S.C. § 2253; FED. R. APP. P. 22(b).

Pursuant to 28 U.S.C. § 2253(c)(1), Petitioner may not proceed on appeal without a certificate of appealability. Section 2253(c)(2) provides that a certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." For purposes of the statute, a substantial showing of the denial of a constitutional right means that "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Dalton v. Battaglia*, 402 F.3d 729, 738 (7th Cir. 2005) (quoting

Miller-El v. Cockrell, 537 U.S. 322, 336 (2003)); Cf. *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000); *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983); *Rodriguez v. United States*, 286 F.3d 972, 978 (7th Cir. 2002); *Ouska v. Cahill-Masching*, 246 F.3d 1036, 1046 (7th Cir. 2001); *Rutledge v. United States*, 230 F.3d 1041, 1047 (7th Cir. 2000).

The Court has carefully considered and reviewed, for a second time, all of Petitioner's arguments. For the reasons set forth in the Court's January 21, 2010 Memorandum and Order (*see Doc. 2*), Petitioner has not made a substantial showing of the denial of a constitutional right. In fact, because the majority of Petitioner's arguments in his § 2255 motion were based on a complete misunderstanding of his criminal conspiracy charge, and the remaining arguments were either frivolous, procedurally defaulted or without merit, Petitioner did not make *any* showing of the denial of a constitutional right (*see Id.*).

Accordingly, for the foregoing reasons, the Court **DECLINES** to issue a certificate of appealability. Pursuant to Federal Rule of Appellate Procedure 22(b), Petitioner may present his request for a certificate of appealability to the Court of Appeals for the Seventh Circuit.

IT IS SO ORDERED.

DATED: 04/05/010

s/ G. Patrick Murphy
G. PATRICK MURPHY
United States District Judge